No. 80-1368

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1980

STATE OF MISSOURI,
Petitioner,

v.

WILLIAM BROWN,
Respondent.

STATE OF MISSOURI,
Petitioner,
vs.
DONNIE L. COLLINS,
Respondent.

STATE CF MISSOURI,
Petitioner,
vs.
HAROLD HAWKINS,
Respondent.

STATE OF MISSOURI,
Petitioner,
vs.
EDDIE L. GREER,
Respondent.

STATE OF MISSOURI,
Petitioner,
vs.
JACKIE MARTIN,
Respondent.

On petition for writ of certiorari to the Missouri Court of Appeals, Western District.

MEMORANDUM OPPOSING CERTIORARI

This Court, in Missouri v. Sours, _____U.S. _____, No. 80-571 (January 26, 1981), denied a writ of certiorari to the Missouri Supreme Court. The State of Missouri in its petition for writ of certiorari therein alleged four questions presented and advanced reasons for granting the writ which are virtually identical to the four questions presented and reasons for granting the writ alleged and advanced by the State herein.

The State of Missouri argues in footnote 2 of page 10 of its petition herein that a writ of certiorari was denied in Missouri v. Sours". . .because the case was moot, since this Court had been informed that the respondent had fully served both his sentences for armed criminal action, and for the underlying felony." Mere release of a prisoner does not automatically foreclose as moot the consideration of the merits by this Court. Sibron v. New York, 392 U.S. 40, 51 (1968). Collateral consequences of conviction, which are presumed to exist, justify a consideration of the merits. Sibron v. New York, supra, 392 U.S. at 53-57. In

Missouri a conviction for a criminal offense may be proved to impeach any person's credibility. Section 491.050 R.S.Mo. 1978. In Missouri a court may sentence a person, who has been previously convicted of a certain number and type of crime, to an extended term of imprisonment. Section 558.016 R.S.Mo. 1978. Only two Justices of this Court voted to dismiss the petition for certiorari in Missouri v. Sours as moot. Thus, the denial of the writ of certiorari in Missouri v. Sours, _____U.S. _____, No. 80-571 (January 26, 1981) was not because of mootness.

Therefore, this Court, having expressed in the past its unwillingness to review questions presented which are identical to those alleged herein, should deny the writ of certiorari.

Respectfully submitted,

GARY L. GARDNER

JAMES W. FLETCHER

JAMES W. FLETCHER
Public Defender

GARY L. GARDNER
(Counsel of Record)

Assistant Public Defender
1305 Locust, Suite 202
Kansas City, Missouri 64106
(816) 474-5811

Attorneys for Respondets Donnie Collins, Eddie Greer, Harold Hawkins, and Jackie Martin.

I hereby certify that one copy of the foregoing has been deposited in the United States mail, first class postage prepaid, on this the 26th day of February, 1981 to Philip M. Koppe, Assistant Attorney General, 615 E. 13th Street, Kansas City, Missouri 64106 and to Stanley L. Morris, Attorney At Law, 403 Plaza Center Building, Kansas City, Missouri 64112.

GARY L. GARDNER

JAMES W. FLETCHER

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Respondent.

On petition for writ of certiorari to the Missouri Court of Appeals, Western District.

AFFIDAVIT IN SUPPORT OF
MOTION TO PROCEED IN FORMA PAUPERIS

I, Eddie L. Greer, being first duly sworn, depose and say that I am a respondent in the above-entitled case; that in support of my motion for leave to proceed in forma pauperis I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe the State of Missouri is not entitled to redress; and that I desire to oppose the issues raised by the State in its petition for writ of certiorari.

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting the appeal are true.

1. Are you presently employed?

   a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.

   b. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received.

Answer:

Avis Car Service.
13th & Minnesota K.C. Kans.
(Part Time)

2. Ha"e you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?

   a. If the answer is yes, describe each source of income, and state the amount received from each during the past twelve months.

Answer:

None

3. Do you own any cash or checking or savings account?

   a. If the answer is yes, state the total value of the items owned.

Answer:

None

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

   a. If the answer is yes, describe the property and state its approximate value.

Answer:

None

5. List the persons who are dependent upon you for support and state your relationship to those persons.

Answer:

My Wife, Mary Jordan (Greer)
My Son's, Wayne, Darly, and Eddie JR.
Kansas City, Kansas.

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

Eddie Greer
EDDIE L. GREER

SUBSCRIBED AND SWORN TO before me this 10 day of March, 1981.

Ronald L. Young
Notary Public

I hereby certify that one copy of the foregoing has been deposited in the United States mail, first class postage prepaid, on this the 11th day of March, 1981 to Philip M. Koppe, Assistant Attorney General, 615 E. 13th Street, Kansas City, Missouri 64106 and to Stanley L. Morris, Attorney At Law, 403 Plaza Center Building, Kansas City, Missouri 64112.

Gary L. Gardner

GARY L. GARDNER

James W. Fletcher

JAMES W. FLETCHER

No. 80-1368

MAR 23 1981
OFFICE OF THE CLERK
SUPREME COURT, U.S.

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Respondent.

On petition for writ of certiorari to the Missouri Court of Appeals, Western District.

AFFIDAVIT IN SUPPORT OF
MOTION TO PROCEED IN FORMA PAUPERIS

I, Donnie L. Collins, being first duly sworn, depose and say that I am a respondent in the above-entitled case; that in support of my motion for leave to proceed in form pauperis I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe the State of Missouri is not entitled to redress; and that I desire to oppose the issues raised by the State in its petition for writ of certiorari.

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting the appeal are true.

1. Are you presently employed?

   a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.

   b. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received.

Answer:

Last employment May of 78
to aug. 1978 Salary $480.00

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?

   a. If the answer is yes, describe each source of income, and state the amount received from each during the past twelve months.

Answer:

NONE

3. Do you own any cash or checking or savings account?

   a. If the answer is yes, state the total value of the items owned.

Answer:

NONE

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

   a. If the answer is yes, describe the property and state its approximate value.

Answer:

NONE

5. List the persons who are dependent upon you for support and state your relationship to those persons.

Answer:

Regina Robinson (Daughter)

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

Donnie Collins
DONNIE L. COLLINS

SUBSCRIBED AND SWORN TO before me this 6th day of March March, 1981.

Alice E. Burkhardt
Notary Public

My comm. expires 11-26-83.

I hereby certify that one copy of the foregoing has been deposited in the United States mail, first class postage prepaid, on this the 27 day of March, 1981 to Philip M. Koppe, Assistant Attorney General, 615 E. 13th Steet, Kansas City, Missouri 64106 and to Stanley L. Morris, Attorney At Law, 403 Plaza Center Building, Kansas City, Missouri 64112.

GARY L. GARDNER

JAMES W. FLETCHER

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On petition for writ of certiorari to the Missouri Court of Appeals, Western District.

AFFIDAVIT IN SUPPORT OF
MOTION TO PROCEED IN FORMA PAUPERIS

I, Jackie Martin, being first duly sworn, depose and say that I am a respondent in the above-entitled case; that in support of my motion for leave to proceed in forma pauperis I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe the State of Missouri is not entitled to redress; and that I desire to oppose the issues raised by the State in its petition for writ of certiorari.

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting the appeal are true.

1. Are you presently employed?

   a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.

   b. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received.

Answer:

No

1-1-79

$250.00 Month

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?

   a. If the answer is yes, describe each source of income, and state the amount received from each during the past twelve months.

Answer:

No

3. Do you own any cash or checking or savings account?

   a. If the answer is yes, state the total value of the items owned.

Answer:

No

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

   a. If the answer is yes, describe the property and state its approximate value.

Answer:

No

5. List the persons who are dependent upon you for suppport and state your relationship to those persons.

Answer:

Non

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

Jackie Martin
JACKIE MARTIN

SUBSCRIBED AND SWORN TO before me this MAR 4 1981 day of _____, 1981.

Oscar D. Dunbar
Notary Public

OSCAR D. DUNBAR
Notary Public, State of Missouri
My Commission Expires August 1, 1984

I hereby certify that one copy of the foregoing has been deposited in the United States mail, first class postage prepaid on this the 9th day of March, 1981 to Philip M. Koppe, Assistant Attorney General, 615 E. 13th Street, Kansas City, Missouri 64106 and to Stanley L. Morris, Attorney At Law, 403 Plaza Center Building, Kansas City, Missouri 64112.

Gary L. Gardner

GARY L. GARDNER

James W. Fletcher

JAMES W. FLETCHER

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On petition for writ of certiorari to the Missouri Court of Appeals, Western District.

MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

Come now Donnie L. Collins, Eddie L. Greer, Harold Hawkins, and Jackie Martin, respondents herein, by and through their court-appointed attorney, and move this Honorable Court for leave to file their Memorandum Opposing Certiorari without prepayment of costs, if any, and to proceed in forma pauperis herein pursuant to Rule 46. Each respondent sought from the Circuit Court of Jackson County, Missouri, the trial court below, leave to perfect their appeals to the Missouri Court of Appeals, Western District, in forma pauperis, and such leave was granted.

Respectfully submitted,

Gary L. Gardner

GARY L. GARDNER for Donnie L. Collins, Eddie L. Greer, Harold Hawkins, and Jackie Martin.

James W. Fletcher

JAMES W. FLETCHER for Donnie L. Collins, Eddie L. Greer, Harold Hawkins, and Jackie Martin.

JAMES W. FLETCHER
Public Defender

GARY L. GARDNER
(Counsel of Record)
Assistant Public Defender

1305 Locust, Suite 202
Kansas City, Missouri 64106
(816) 474-5811

Attorneys for Respondents Donnie L. Collins, Eddie L. Greer, Harold Hawkins, and Jackie Martin.

I hereby certify that one copy of the foregoing has been deposited in the United States mail, first class postage prepaid, on this the 3rd day of March, 1981 to Philip M. Koppe, Assistant Attorney General, 615 E. 13th Street, Kansas City, Missouri 64106 and to Stanley L. Morris, Attorney At Law, 403 Plaza Center Building, Kansas City, Missouri 64112.

Gary L. Gardner

GARY L. GARDNER

James W. Fletcher

JAMES W. FLETCHER